

§ 24.136

appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5363, 5365, 5367))

(Approved by the Office of Management and Budget under control number 1512-0058)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, 13685, Mar. 22, 1999; T.D. ATF-455, 66 FR 29483, May 31, 2001]

§ 24.136 Procedure for alternating proprietors.

(a) *General.* Wine premises, or parts thereof, may be operated alternately by proprietors who have each filed and received approval of the necessary applications and bonds and have qualified under the provisions of this part. Where operations by alternating proprietors are limited to parts of the wine premises, the application will describe areas, buildings, floors, or rooms which will be alternated and will be accompanied by a diagram delineating the parts of the wine premises to be alternated. A separate diagram will be submitted to depict each arrangement under which the wine premises will be operated. Once the qualifying documents have been approved, and operations initiated, the wine premises, or parts thereof, may be alternated. Any transfer of wine, spirits, or other accountable materials from one proprietor to the other proprietor will be indicated in the records and reports of each proprietor. Operation of a bonded winery engaged in the production of wine by an alternate proprietor will be at least one calendar day in length.

(b) *Alternation.* All operations in any area, building, floor, or room to be alternated will be completely finished and all wine, spirits, and other accountable materials will be removed from the alternated wine premises or transferred to the incoming proprietor. However, wine, spirits, and other accountable materials may be retained in locked tanks at wine premises to be alternated and remain in the custody of the outgoing proprietor.

(c) *Bonds.* The outgoing proprietor who has filed bond and intends to resume operation of the alternated areas,

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buildings, floors, or rooms following suspension of operations by an alternating proprietor shall execute a consent of surety to continue in effect all bonds. Where wine, spirits, or other accountable materials subject to tax under 26 U.S.C. chapter 51 are to be retained in tanks on the wine premises to be alternated, the outgoing proprietor shall also execute a consent of surety to continue the liability of all bonds for the tax on the materials, notwithstanding the change in proprietorship.

(d) *Records.* Each proprietor shall maintain separate records and submit a separate TTB F 5120.17, Report of Bonded Wine Premises Operations. All transfers of wine, spirits, and other accountable materials will be reflected in the records of each proprietor. Each proprietor shall maintain a record showing the name and registry number of the incoming or outgoing proprietor, the effective date and hour of alternation, and the quantity in gallons and the percent alcohol by volume or proof of any wine, spirits, or other accountable materials transferred or received. (Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1379, as amended, 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5351, 5352, 5354, 5356, 5361, 5362, 5363, 5367, 5373))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-338, 58 FR 19064, Apr. 12, 1993]

§ 24.137 Alternate use of the wine premises for customs purposes.

(a) *General.* The wine premises may be alternated as a Customs Bonded Warehouse under applicable customs laws and regulations, for the purpose of measuring, gauging, and bottling or packing wine. The use of the portion of the wine premises alternated as a Customs Bonded Warehouse is subject to the approval of the district director of customs and the appropriate TTB officer. When it is necessary to convey wine in customs custody across bonded wine premises, the proprietor shall comply with the provisions of § 24.92.

(b) *Qualifying documents.* Where the proprietor desires to alternate a portion of wine premises for customs use,

the following qualifying documents will be filed:

(1) TTB F 5120.25 to cover the alternation;

(2) A diagram clearly depicting any area, building, floor, room or major equipment in use during the alternation; and

(3) Any other documents or additional information the appropriate TTB officer may require.

(c) *Alternation*. After approval of the qualifying documents by the appropriate TTB officer, the proprietor may alternate the wine premises. Portions of the wine premises to be excluded by curtailment or included by extension may not be used for purposes other than those authorized. Prior to the effective date and hour of the alternation, the proprietor shall remove all wine and spirits from the portion of the wine premises to be alternated for customs purposes. (Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5365, 5367))

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PERMANENT DISCONTINUANCE OF OPERATIONS

§ 24.140 Notice.

(a) *General*. Where all or part of the operations at a wine premises are to be permanently discontinued, the proprietor shall file with the appropriate TTB officer a notice in letter form to cover the discontinuance. The proprietor shall state in the notice the date on which operations will be discontinued and, if the wine premises are to be transferred to a successor proprietor, the name of the successor proprietor. Any basic permit issued to the proprietor under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203) for the operation discontinued will be submitted to the appropriate TTB officer with a written request for cancellation.

(b) *Bonded wine premises*. The proprietor shall certify in the notice, as applicable, that:

(1) All wine, spirits, or volatile fruit-flavor concentrate have been lawfully removed from bonded wine premises, destroyed, or transferred to a successor as of the effective date of discontinuance,

(2) No wine, spirits, or volatile fruit-flavor concentrate are in transit to bonded wine premises, and

(3) All approved applications covering the transfer of spirits to bonded wine premises have been returned to the appropriate TTB officer.

The proprietor shall submit a report marked "Final" on the TTB F 5120.17, Report of Bonded Wine Premises Operations. Any wine, spirits, or volatile fruit-flavor concentrate transferred to a successor will be identified as "Transferred to successor" on the report and identified as "Received from predecessor" on the initial report filed by the successor.

(c) *Taxpaid wine bottling house premises or Taxpaid wine premises*. The proprietor shall certify in the notice that all taxpaid United States or foreign wine on hand have been disposed of, or if not yet disposed of, the manner of disposition and the time period in which the disposition will occur. The proprietor shall include taxpaid United States wine on the TTB F 5120.17 report marked "Final." Any United States taxpaid wine transferred to a successor will be identified as "Transferred to successor" on the report and identified as "Received from predecessor" on the initial report filed by the successor. (Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

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[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-338, 58 FR 19064, Apr. 12, 1993; T.D. ATF-409, 64 FR 13683, Mar. 22, 1999]

§ 24.141 Bonded wine warehouse.

Where all operations at a bonded wine warehouse are to be permanently discontinued, the warehouse proprietor shall file with the appropriate TTB officer a notice in letter form to cover the discontinuance. The warehouse proprietor shall state in the notice the name, registry number, and address of